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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,694

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Thomas J. Weed

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EXAMINER

MARC, MCDIEUNEL

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,694

Applicant(s)

WEED ET AL.

Examiner

McDieunel Marc

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 and 3-22 are presented for examination.
2. The rejection to claims 1 and 3-20 under 35 U.S.C. 102(e) as being anticipated by Breed (U.S. Pat. No. 6,738,697) is **maintained**.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1 and 3-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Breed (U.S. Pat. No. 6,738,697).

As per claim 1, Breed teaches telematic system for vehicle diagnostic having a method for stopping a vehicle (see abstract) comprising the steps of: sending a signal requesting the vehicle to stop via a (telematic device)¹ (see abstract as noted above); processing the signal within a vehicle ECU (see col. 2, lines 37-51); and commencing a vehicle stop sequence (see col. 82, lines 41-48, inherently a sequence of stopping has been performed).

As per claims 19-22, Breed teaches telematic system for vehicle diagnostic having a method for stopping a vehicle (see abstract) comprising the steps of: communicating a stop signal to a telematic device (see col. 82, lines 41-48, inherently the communication has been established with the diagnostic/telematic system); relaying said stop signal from said telematic device to a vehicle (see col. 82, lines 41-48, inherently the diagnostic/telematic system instructs the vehicle to apply the barke); receiving said stop signal on the vehicle (see col. 82, lines 41-48 as noted above being also considered as signal received on the vehicle); transmitting said stop signal to a vehicle ECU (see abstract and col. 2, lines 38-51 as noted above); and transmitting said stop signal to one or more of the following: a primary brake system (which being considered as ABS), a spring break system (which being considered as manual braking as well as foot pedal), and an engine ECU (see col. 2, lines 38-51).

¹ The telematics device will use multiple microprocessors based on IBM's Power Architecture, and will have the capability to monitor the speed of the vehicle and send out a warning if the car surpasses the posted speed limit. IBM engineers will design the infrastructure for the traffic-tracking system. Wireless access points, which will monitor the devices, will be installed on street lights and other places along the roadway.

The telematic device will include several wireless technologies, including GSM (Global System for Mobile Communications) cellular capabilities and General Packet Radio Service. Bluetooth and an optional driver-identification feature using RFID also will be on the device.

As per claims 3, 6, 8-9, 11-16 and 18 Breed teaches a method of commencing a vehicle stop sequence includes one or more of the following steps: apply a vehicle primary brake system (being considered broadly as braking/ABS), applying a vehicle spring brake system (being considered as manual braking as well as foot braking), applying an engine torque reducer (which being considered as switching to lower gear), applying a vehicle torque limitation device (being considered as neutral gear), or applying an engine kill switch (being considered as turn off); wherein the vehicle ECU is an anti-locking brake system ECU, or any combination thereof via an existing vehicle communication bus (see col. 2, lines 38-51, wherein the braking being considered as ABS); performing a diagnostic check to verify that the vehicle is capable of receiving said signal from said telematic device (see abstract and col. 2, lines 38-51); performing a diagnostic check to verify that the vehicle is capable of receiving said signal from said telematic device and performing a diagnostic check to verify that the ECU is capable of receiving a operator validation signal (see abstract and col. 2, lines 38-51); wherein said stop sequence is commenced when said telematic device diagnostic test fails; and when either the telematic device diagnostic test fails or the operator authentication diagnostic test fails (see col. 2, lines 38-51); resetting the vehicle brake and/or engine systems thereby allowing operation of the vehicle (see col. 2, lines 38-51 as noted above); wherein said telematic device is a Qualcomm system (being considered as design choice); wherein said signal from said telematic device is encoded (inherently the device should be encoded in order to be used in a unique system); wherein said telematic device further provides a vehicle identification signal (having VIS being considered as design choice).

With respect to claims 4, 5, 7, 10 and 17, Breed teaches a method having authenticating an operator's identification and transmitting an operator validation signal to said ECU; and according to claim 17, a method having broadcasting a vehicle identifier signal when a vehicle stop identifier signal has been received in combination with the other elements of the claimed invention, which equates to (A common use of

SAW technology is for access control to buildings. RFID technology using electronics is also applicable for this purpose; however, the range of electronic RFID technology is usually limited to one meter or less. In contrast, the SAW technology can permit sensing up to about 30 meters. As a keyless entry system, an automobile can be configured such that the doors unlock as the holder of a card containing the SAW ID system approaches the vehicle and similarly, the vehicle doors can be automatically locked when occupant with the card travels beyond a certain distance from the vehicle. When the occupant enters the vehicle, the doors can again automatically lock either through logic or through a current system wherein doors automatically lock when the vehicle is placed in gear. An occupant with such a card would also not need to have an ignition key. The vehicle would recognize that the SAW based card was inside vehicle and then permit the vehicle to be started by issuing an oral command if a voice recognition system is present or by depressing a button, for example, without the need for an ignition key. See col. 59, lines 49-57).

Response to Arguments

As to the reference not teaching not teaching sending a signal requesting the vehicle to stop via telematic device (see Breed' s key less entry technology as noted above col. 59, lines 49-57).

As to the reference not teaching not teaching relaying a stop signal from a telematic device to a vehicle (Bree' s vehicle would recognize that the SAW based card was inside vehicle and then permit the vehicle to be started by issuing an oral command if a voice recognition system is present, which implies start/unstart/stop signal based on the recognition).

As to the reference not teaching receiving a signal from a telematic device (see Breed' s col. 59, lines 49-57 as noted above, the vehicle receive signals from the key), bear in mind Breed is dealing with key less entry technology.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (571) 272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


McDieunel Marc

Friday, May 19, 2006
MM/


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600